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LEXSEE 217 USPQ 492

Ex parte Bylund

Appeal No. 475-25 from Art Unit 111.

Application for reissue of patent of Linton D. Bylund, Serial No. 974,529, filed Dec. 29, 1978, to reissue patent No. 3,802,931, issued Apr. 9, 1974, based on application, Serial No. 307,886, filed Nov. 20, 1972, continuation of serial No. 90,033, filed Nov. 16, 1970, now abandoned.

Board of Patent Appeals and Interferences

1981 Pat. App. LEXIS 13; 217 U.S.P.Q. (BNA) 492

August 21, 1981, Decided

[*1]

Before Magil and Serota, Examiners-in-Chief, and Seidleck, Acting Examiner-in-Chief.

COUNSEL:

Cushman, Darby & Cushman, Washington, D.C., and Carl R. Lippert, Alcoa Center, Pa., for applicant.

OPINIONBY: SEROTA

OPINION:

Serota, Examiner-in-Chief.

This is an appeal from the Examiner's decision finally rejecting claims 1 through 6, 10, 11 and 12, the only claims remaining in this application.

Claims 1 and 10 are illustrative of the subject matter to which the claims on appeal are directed and read as follows:

1. In the art of making aluminum sheet suitable for drawing, cupping and similar operations *in H19 temper*, including canmaking operations, the method of achieving improved forming characteristics of the sheet in [work hardened condition] *H19 temper*, particularly as regards avoiding excessive 45 deg. earning of the metal during subsequent drawing operations, which comprises:

hot rolling the metal in successive stages to produce reroll stock of an intermediate coilable thickness,

[commencing said hot rolling at a metal temperature above 950 deg. F.] controlling the temperature of the metal to be above 950 deg. F when hot rolling commences,

said temperature being selected to provide [*2] for pre-conditioning the metal structure as the hot rolling operation proceeds whereby subsequent cold rolling produces work hardened sheet of reduced 45 deg. earning tendency compared to sheet prepared by hot rolling the metal initially at a lower temperature, and

cold rolling the metal from said intermediate thickness into work hardened sheet of *H19 temper*.

10. In the art of rolling aluminum, including casting the metal and hot rolling the metal casting, the method which comprises:

[commencing said hot rolling above 950 deg. F at a metal temperature effective] controlling the temperature of the metal to be above 950 deg. F when hot rolling commences for pre-conditioning its plastic flow characteristic in work hardened *H19 temper*; continuing to reduce the metal thickness as the hot rolling operation proceeds to an intermediate coilable thickness; and cold rolling the metal from said intermediate thickness into *H19* sheet having a thickness of

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about 0.005-0.020 inch, said sheet being adapted for drawing in its work hardened condition with less than 5% earing (45 deg.), and drawing the sheet in its work hardened H19 condition without annealing the metal following [*3] said cold rolling.

The references relied upon by the Examiner are:

Loach	3,329,537	July 4, 1967
Bylund	3,397,044	Aug. 13, 1968
British Specification	780,570	Aug. 7, 1957

Blade, "The Influence of Constitution on the Earing of Commercial-Purity Aluminum," *Journal of the Institute of Metals*, Vol. 90, 1961-62, pp. 374-379.

Chevigny, "Occurrence of Ears In the Deep-Drawing of Aluminum and its Alloys," Revue de L'Aluminum, March 1949, pp. 79-87.

Evidence adduced during litigation relied upon by the Examiner:

DA 19	dated 2/13/57
DA 243	dated 2/3/66
DA 20	dated 9/25/57
DA 278	dated 4/7/66
DA 288	dated 5/24/66
DA 590	dated 1/25/67
DA 591	dated 3/67
DA 33	dated "Third Period 1960"
DA 735	dated 4/16/66
Documents 54904-54913	dated 6/16/66
DA 377	dated 3/30-4/3/67
DA 420	dated 6/26/67
DA 433	dated 7/21/67
DA 443	dated 8/31-8/11/67
DA 478	dated 3/19/68
PRM 2203	dated 2/23 & 26/68
DA 822	dated 5/16/68
DA 1035A	dated 8/21/67
DA 827	dated "First Period 1967"
DA 375	dated 3/29/67
DA 352	dated 1/5/67
DA 826A-U	dated 2/1/58-10/9/69

Selected portions of testimony by:

Bylund

Zenik

Young

Gidley

Reference added by Board under 37 CFR 1.196(b): [*4]

Chevigny 3,341,368 Sept. 12, 1967
(Filed Feb. 13, 1964)

The outstanding rejections are:

1. Claims 1, 2, 3, 5 and 6 under 35 U.S.C. 102 "as fully anticipated by Great Britain (780,570);"
 2. Claims 1, 2, 3, 5, 6, 10, 11 and 12 under 35 U.S.C. 102 "as clearly anticipated by Blade;"
 3. Claims 1, 2, 3, 6, 10 and 12 under 35 U.S.C. 103 "as unpatentable over Bylund '044 in view of Loach;"

4. Claims 1, 2, 3, 5, and 6 under 35 U.S.C. 103 "as unpatentable over Bylund '044 in view of Chevigny;"
5. Claims 1 through 6, 10, 11 and 12 under 35 U.S.C. 103 "as unpatentable over Bylund '044 in view of Blade;"
6. Claims 1, 2, 3, 5, 6, 10, 11 and 12 under 35 U.S.C. 103 "as unpatentable over Bylund '044 in view of Great Britain * * *;"
7. Claims 1 through 6 under 35 U.S.C. 102 "as fully anticipated by Reynolds practices set forth in DA 19 for 1100 and 3003 alloy sheet;"
8. Claims 1 through 6 under 35 U.S.C. 102 as fully anticipated by the prior practices at Mason-Keller set forth in DA 20 (9/15/57);"
9. Claims 1 through 6 under 35 U.S.C. 102 "as anticipated by the 3003-F reroll stock process set forth in DA 243 * * * and DA 278, 288, 590 and 591 * * *;"
10. [*5] Claims 1 through 6 under 35 U.S.C. 102 "as anticipated by Reynolds prior 1235 foil processing practices as set forth in DA 33, testimony of Bylund, pp. 2161 and 2198 * * * and testimony of Zenik pp. 21-23 * * *;"
11. Claims 1 through 6 under 35 U.S.C. 102 "as anticipated by Reynolds prior practices of producing 3004-H220 Draw and Iron Cans as evidenced by DA 735 * * * and Documents 54904-54913;"
12. Claims 1 through 6, 10, 11 and 12 under 35 U.S.C. 102 "as fully anticipated by Reynolds commercial use of MD 112-H19 as evidenced by DA 377 * * * DA 420 * * *, DA 433 * * * DA 443 and DA 478 * * *;"
13. Claims 1 through 6, 10, 11 and 12 under 35 U.S.C. 102 "as anticipated by Reynolds prior commercial sales of 3004-H19D and I can stock as evidenced by DA 433 * * * and PRM 2203 * * *;"
14. Claims 10, 11 and 12 under 35 U.S.C. 112, second paragraph "for failure to distinctly claim and particularly point out the invention;"
15. Claims 1 through 6, 10, 11 and 12 under 35 U.S.C. 251 "on the basis that the reissue declaration is insufficient;"
16. Claims 10, 11 and 12 under 35 U.S.C. 132 "on the ground that they are drawn to new matter."

A threshold question which must be answered [*6] is whether the reissue application involved in this appeal is entitled under 35 U.S.C. 120 to the benefit of the filing date, August 11, 1967, of application Serial No. 660,132. The last aforementioned application issued as Patent No. 3,397,044, on August 13, 1968.

The present application, as well as the patent for which it seeks reissue, states:

"With respect to any disclosure content of this applicant in common with * * * applicant's prior application Ser. No. 712,314 (now U.S. Pat. No. 3,571,910), the latter being a division of Ser. No. 660,132 (now U.S. Pat. No. 3,397,044) filed Aug. 11, 1967, the present application is entitled to the filing date of Aug. 11, 1967, * * *"

The applicant's application, Serial No. 307,886, which issued as Patent No. 3,802,931, for which patent the present application seeks reissue is stated to "a continuation of copending application Serial No. 90,033 filed on November 16, 1970, and now abandoned." There does not appear to be any dispute that except for the reference in the '886 application to the prior applications quoted above the 90,033 application disclosure is the same as the disclosure in the '886 application.

In the amendment filed in [*7] the '886 application in which the above quoted portion seeking the benefit of the respective filing dates of earlier applications appears, it is also stated:

"Although the present application is not closely related to the others, and certainly would not be considered a continuation-in-part in the usual sense, it is believed to be clear that preserving all benefits of the cited statutory provision (35 U.S.C. 120) that are potentially available is best achieved by introducing an express reference to the earlier cases."

In the paragraph bridging pages 19 and 20 of applicant's brief on appeal the appellant urges:

"While applicant agrees with the Examiner that there is no disclosure in those prior applications of 'controlling hot rolling temperature to commence at a temperature above 950 deg. F.' those applications clearly do disclose cold rolling aluminum sheet to H19 temper, and then drawing and ironing can bodies out of the thus rolled aluminum sheet."

From the above quoted portions of the '886 application and the appellant's brief, it appears that the appellant is acknowledging that the referred to applications (now patents) in the claims for priority under 35 U.S.C. 120 do not [*8] fully disclose the subject matter now claimed. Indeed, a study of the '044 patent fails to reveal there is any recognition in the patent that a particular temperature at the commencement of hot rolling is of any special advantage with respect to the reduction of earing or is otherwise desirable. The only true requirements set forth in the '044 patent with respect to the hot rolling temperature is that it be well above the recrystallization temperature of the aluminum composition being rolled, "e.g. greater than 600 deg. F. and usually 750 deg. F.-1,000 deg. F." The patent is directed to specific aluminum compositions, as opposed to aluminum compositions broadly, which are disclosed as being beneficial for making aluminum foil and other articles such as drawn and ironed can bodies. All advantages flowing from the invention described and claimed in the '044 patent are in some way related at least in part to the composition employed. There is no recognition in the patent that irrespective of the composition the initial hot rolling temperature is of significance except that the temperature at the beginning of hot rolling be above the recrystallization temperature.

In view [*9] of the failure of the patent to describe the entire subject matter of each of the respective claims on appeal and since the claims on appeal are not restricted to the particular aluminum compositions required by the '044 patent, the '044 patent does not meet the requirements of 35 U.S.C. 112, first paragraph. Since the '044 patent does not satisfy the requirements of 35 U.S.C. 112 first paragraph as required by 35 U.S.C. 120, the present application cannot be given the benefit of the filing date of the '044 patent, or for that matter of the '910 patent. See *In re Berkman*, 209 USPQ 45 (CCPA 1981); *In re Scheiber*, 587 F.2d 59, 199 USPQ 782 (CCPA 1978); *In re Lukach*, 58 CCPA 1233, 442 F.2d 967, 169 USPQ 795 (CCPA 1971); *In re MacLean*, 454 F.2d 756, 172 USPQ 494 (CCPA 1972) and *In re Hafner*, 56 CCPA 1424, 410 F.2d 1403, 161 USPQ 783 (1969).

Moreover, we know of no authority for granting an applicant the benefit of the filing date of an earlier application under 35 U.S.C. 120 for only part of a claim. Here, the appellant appears to seek the benefits of 35 U.S.C. 120 with respect to the cold rolling and drawing steps of the respective claims, but acknowledges that there is no basis [*10] in the earlier applications for the hot rolling temperatures required by the claims.

Accordingly, we hold that the Examiner's refusal to accord the here involved reissue application, the benefit of the filing date of the application which issued as the '044 patent is correct.

The rejection of claims 1, 2, 3, 5 and 6 under 35 U.S.C. 102 over the British reference is unsustainable. These claims require cold rolling into work hardened sheet of H19 temper. The British reference, however, does not disclose cold rolling to H19 temper. We are unable to determine with certainty that the cold rolling described in the British reference would in fact result in H19 temper. In order to constitute an anticipation the reference must describe or disclose all of the limitations of the claims. *In re Lange*, 209 USPQ 288, 293 (CCPA 1981). Of course, what is described in the reference may inherently result in or encompass what is being claimed. If this inherency necessarily flows from what is described, the reference may be an anticipation.

Under the provisions of 37 CFR 1.196(b) a new ground of rejection is made against claims 1, 2, 3, 5 and 6.

Claims 1, 2, 3, 5 and 6 are rejected under 35 [*11] U.S.C. 103 as obvious from the British reference.

The British reference discloses a process for making aluminum sheet and strip "which can be formed into hollow bodies by drawing or spinning without or with only a very small development of ears." See page 1, column 1, lines 35 et seq. In accordance with the reference disclosure "billets to be rolled are homogenized at a temperature between 550 deg. and 640 deg. C. (1022 deg. F to 1184 deg. F.) and are subjected subsequently to hot-rolling *controlled* so as to cause the least possible temperature drop." (Emphasis ours). This disclosure in the reference, in our view, clearly anticipates the concept of controlling the temperature of the metal at the commencement of hot rolling so that the temperature is above 950 deg. F. It is clear to us that the reference recognizes that there is a relationship between the temperature at which the hot rolling is commenced and the formation of ears. The reference additionally discloses the cold rolling of the hot rolled metal to produce various degrees of hardness. The claims on appeal do not patentably distinguish from the reference on the basis of the recited H19 temper, since the reference, [*12] as noted, contemplates various degrees of temper as well as intermediate hardness. The appellant has not established anything unobvious with respect to H19 since this is a known commercial degree of hardness.

We will sustain the rejection of claims 1, 2, 3, 5, 6, 10, 11 and 12 under 35 U.S.C. 102 as anticipated by Blade.

We agree with the Examiner's holding that the Blade publication adequately describes the process defined by the claims subject to this rejection. Blade, contrary to the inference suggested by the partial quote by the appellant, at page 374 states:

"It was found that neither composition nor preheating temperature influenced the 45 deg. earing of as-rolled-sheet. Both, however, affected annealed sheet."

It thus appears the author concluded that both composition and temperature had an effect on 45 deg. earing of annealed sheets. From the entire disclosure of the reference the worker in the art, as pointed out by the Examiner is taught that 45 deg. earing is reduced by selecting appropriate compositions, preheating to a temperature within the claimed range, hot rolling, annealing, cold rolling and then drawing as required by the claims. As additionally [*13] pointed out by the Examiner, Blade clearly teaches that the metal at the beginning of the hot rolling is at the preheat temperature. This clearly is a teaching of controlling the temperature to the desired level. The amount of cold rolling disclosed by Blade would inherently produce H19 temper.

We will sustain the rejection of claims 1, 2, 3, 6, 10 and 12 under 35 U.S.C. 103 over the combination of Bylund and Loach.

Although the appellant is not here accorded the benefit of the filing date of the Bylund patent under 35 U.S.C. 120, because of the failure of the patent to satisfy the requirements of section 112 with respect to the claims here at issue, the Bylund patent is available as a reference against the claims. See *In re Hafner*, *supra*, and *In re Howarth*, decided July 16, 1981, F.2d , 210 USPQ 689 (CCPA 1981).

The combined disclosures of Bylund and Loach would suggest the here claimed process. While it is true that neither reference recognizes the relationship between the temperature at which hot rolling commences and the formation of ears, the references recognize the necessity for commencing hot rolling while the metal is at or above a minimum prescribed temperature. [*14] Bylund in Example 2 requires 950 deg.-1000 deg. F. The .023" gage product of this Example would anticipate at least claims 1, 2, 3 and 6. However, even if Bylund were unavailable as a reference, Loach alone would have rendered obvious the claimed subject matter. Example 6 of Loach discloses that the metal is at 970 deg. F at the commencement of hot rolling and then cold rolled. The amount of cold rolling there described would inherently produce an H19 temper. This Example coupled with the Loach disclosure that the sheet produced may be formed into containers, and especially when combined with Bylund would have rendered the claims subject to this rejection *prima facie* obvious.

Although the Examiner did not include claims 4 and 5 in the rejection based upon Bylund and Loach, under the provisions of 37 CFR 1.196(b) we reject claims 4 and 5 under 35 U.S.C. 103 as obvious from the combined disclosures by Bylund and Loach. Each of the references discloses that the temperature of the metal is reduced from its initial hot rolling temperature. Bylund at column 10, lines 24-37 discloses that the temperature usually drops to the neighborhood of 400 deg.-500 deg. F., and Loach, in Example [*15] 6, indicates the temperature was reduced from 950 deg. F to 420 deg. F during hot rolling. In the absence of a showing that the 550 deg. F recited in claim 4 is productive of unobvious results or is in some way critical, the recitation of a specific temperature at the completion of hot rolling does not serve to patentably distinguish the claims over the references.

The recitation in the references that the temperature of the metal is at or above a particular temperature at the beginning of hot rolling satisfies the requirement of the claims on appeal from "controlling the temperature." To achieve the stated temperature of the references is, in our view, "controlling." The temperatures of the references are not chance occurrences, but are intentionally achieved. Therefore, temperatures in the reference processes are "controlled" as required by the claims on appeal.

Bylund at column 7 discloses an annealing step prior to cold rolling to avoid earing. Therefore, to include such a step in the Bylund or Loach processes would have been *prima facie* obvious.

We will not sustain the Examiner's rejection of claims 1, 2, 3, 5 and 6 as obvious from Bylund combined with Chevigny. The Chevigny [*16] publication does not have the disclosure pointed to by the Examiner in support of the rejection. Apparently, the Examiner intended the above identified Chevigny patent as opposed to the Chevigny publication identified in the Answer.

Under the provisions of 37 CFR 1.196(b) a new ground of rejection is made against claims 1, 2, 3, 4, 5, 6, 10, 11 and 12. These nine last aforementioned claims are rejected under 35 U.S.C. 103 as obvious from Chevigny patent No. 3,341,368 alone or combined with Bylund '044.

Chevigny discloses that ears (horns) may be eliminated or reduced in dished or cupped members by hot rolling the metal while at an elevated temperature. Temperatures such as 986 deg. F (530 deg. C) are taught. See for example the paragraph bridging columns 3 and 4. Following the hot rolling the sheet is cold rolled. The degree of cold rolling dis-

closed by the patent would either result in H19 or approach that degree of hardness. As noted previously, the recitation in the reference of a precise temperature satisfies the requirement of the claims on appeal for "controlling."

The temperature recited in claim 4 does not patentably distinguish the process from that of Chevigny. [*17] It would appear that since Chevigny does not disclose any special precautions to maintain the temperature during hot rolling that the temperature at the conclusion of hot rolling would be lower than at the beginning. The specific concluding temperature has not been established to be productive of any unobvious results.

Similarly, the elevated temperature recited in claim 11 has not been demonstrated to be critical. It appears that the critical temperature is that of the metal at the commencement of hot rolling. Chevigny discloses preheating to temperatures from 1112 deg. to 1148 deg. F. (600 deg.-620 deg. C). This preheating step of Chevigny would have rendered the claimed preheating step *prima facie* obvious.

The patent to Chevigny does not disclose or suggest an annealing step between the final cold roll and cupping and dishing. Therefore, claims 10 through 12 do not distinguish from Chevigny on the basis of the preclusion of such intervening annealing step. In any event, Bylund in Example 10 discloses drawing without annealing subsequent to cold rolling.

The remaining rejections by the Examiner under 35 U.S.C. 103 based respectively upon the combination of Bylund [*18] with Blade and the British reference (rejections identified above as 5 and 6) are sustained. Since we have either sustained or made rejections based individually upon Blade or the British reference, and since Bylund, as discussed previously, has available disclosure which is pertinent to the claims on appeal, the rejections based upon combinations of these references under 35 U.S.C. 103, as discussed by the Examiner are sustainable.

The rejections identified above as rejections 7, 8, 9, 10, 11, 12 and 13 are all based upon evidence adduced during litigation. The various portions of this evidence relied upon by the Examiner, and indeed, the totality of the evidence pointed to by the Examiner and here of record, in our view establishes that the here claimed process was practiced by or on behalf of the appellant's assignee to produce commercial products which were sold or on sale at least one year prior to the effective filing date of the here involved application. The totality of the evidence establishes that aluminum ingots were preheated to temperatures well above 950 deg. F and hot rolled while at a temperature of at least 950 deg. F. From the testimony and other evidence it [*19] would appear that if in fact the preheated ingots cooled prior to hot rolling, the temperature at the commencement of hot rolling was still at least the here required 950 deg. F. In fact, it appears that as early as 1957 (DA 19) it was recognized that there is a relationship between the temperature of hot rolling and ears. In any event, whether or not the appellant or the art recognized a relationship between earing and the initial temperature of hot rolling, the practice according to the evidence was to hot roll after preheating the ingot well above 950 deg. F and that normally the temperature at the beginning of the hot rolling was above 950 deg. F. The recognition of an additional advantage for doing what was commercially practiced does not render the process patentable. It is evident, that the temperatures at the beginning of hot rolling in the processes to which the exhibits and testimony relate were intentionally maintained over 950 deg. F. This, as discussed above, satisfies the claimed requirement for "controlling the temperature."

Contrary to the appellant's arguments, the evidence does not bear out the asserted experimental use. There is no evidence that the customers [*20] were required to report back any observations or otherwise perform acts which were consistent with or would support a conclusion that the products sold were part of an experiment on behalf of the appellant or his assignee. See Robbins Co. v. Lawrence Manufacturing Co., 482 F.2d 426, 178 USPQ 577.

Commercialization of the process, such as, selling the product of the process sought to be patented more than one year prior to the effective filing date of the application bars the patenting of the process; cf. Worley v. Loker Tobacco Co., 104 U.S. 340; Metallizing Engineering Co. v. Kenyon, 153 F.2d 516, 68 USPQ 54 (2nd Cir. 1946); U.S. Chemical Corp. v. Plastic Glass Corp., 243 F.2d 892, 113 USPQ 303 (ord Cir. 1957).

We will not sustain the Examiner's rejection of claims 10, 11 and 12 under 35 U.S.C. 112, second paragraph. These claims, especially when read in the light of the appellant's disclosure, are clear as to what subject matter is intended to be circumscribed. The claims, therefore, satisfy the requirements of 35 U.S.C. 112, second paragraph. See *In re Moore*, 58 CCPA 1042, 439 F.2d 1232, 169 USPQ 236 (1971).

We will not sustain the Examiner's rejection under 35 U.S.C. 251. [*21] The reissue oath appears to adequately conform to the requirements of the statute and rules. We note that original claims 7, 8, 9 and 14 specifically required H19 temper.

We will not sustain the rejection under 35 U.S.C. 132. n1 Original claim 13, dependent upon claim 10, provides the necessary antecedent basis for present claims 10 through 12. The cold working required by original claim 10 would inherently result in the now required H19 temper. We believe one skilled in the art on reading the original claims, especially in the light of the disclosure would have recognized that the cold rolling of original claim 10 would inherently result in the H19 temper. This inherency may properly provide the basis for now explicitly claiming the H19 temper; cf. In re Lange, *supra*; In re Smythe, 480 F.2d 1376, 18 USPQ 279, 185 (CCPA 1973).

n1 We here note that a recent decision by the Court of Customs and Patent Appeals, In re Rasmussen, decided June 4, 1981, F.2d , 211 USPQ 323 has held that 35 U.S.C. 132 does not provide a basis for rejection. 35 U.S.C. 112, first paragraph is the appropriate statutory basis.

Although we have sustained several of the Examiner's [*22] rejections we here wish to specifically note that contrary to the Examiner's assertions, functional language in the claims must be given full weight and may not be disregarded in evaluating the patentability of the subject matter defined employing such functional language. However, the applicant must establish that what is taught by the reference does not inherently function in the manner required by the claim; cf. In re Hallman decided by the CCPA July 16, 1981, 655 F.2d 212, 210 USPQ 609.

In summary, the Examiners' decision refusing to allow the claims on appeal is affirmed and new grounds of rejection have been made in accordance with the authority granted this Board by 37 CFR 1.196(b).

Any request for reconsideration or modification of this decision by the Board of Appeals based upon the same record must be filed within thirty days from the date hereof. (37 CFR 1.197).

With respect to the new rejections under 37 CFR 1.196(b), should appellant elect the *alternate* option under that rule to prosecute further before the Primary Examiner by way of amendment or showing of facts, or both, not previously of record, a shortened statutory period for making such response is hereby [*23] set to expire *thirty days* from the date of this decision. In the event appellant elects this *alternate* option, in order to preserve the right to seek review under 35 U.S.C. 141 or 145 with respect to the affirmed rejections, the effective date of the affirmance is deferred until conclusion of the prosecution before the Examiner unless, as a mere incident to the limited prosecution, the affirmed rejections are overcome.

If prosecution before the Examiner does not result in allowance of the application or a second appeal, this case should be returned to us for final action on the affirmed rejections, including any timely request for reconsideration thereof.

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SHEPARD'S SUMMARY

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No negative case history.

Citing References:

Other Sources: American Law Rpts/Lawyers' Edition Annos (1)

CASE HISTORY (1 citing reference)

1. **Same case at:**

In re Bylund, 205 U.S.P.Q. (BNA) 350 (Comm'r Pat. & Trademarks 1979)

ALR ANNOTATIONS (1 Citing Annotation)

2. *When does on-sale bar of 35 U.S.C.A. sec. 102(b), which denies patentability to invention that has been on sale for more than one year prior to date of patent application, prevent issuance of valid patent, 155 A.L.R. Fed. 1, sec. 33(a)*